Last week, the minority leader came to this floor, and he delivered a statement which I found very disturbing. I found it disturbing and also misleading and wrong. The Senator from New York, who just left the floor a few moments ago, stood here and said Republicans are funding ''two groups: Border Patrol and ICE,'' and he went on to say ''that nobody respects in this country.'' Those are the words of the minority leader, the Senator from New York. He said nobody respects them in this country. That statement alone is blatantly false. The heroes of ICE and Border Patrol spend their days arresting gang members, seizing fentanyl, and securing the border. The American people know it, and the American people respect it. Americans all across this country honor their service and their sacrifice.

Let me tell you what Americans don't respect, and let me tell you what Americans flat-out reject: It is the Democrats who call to defund the police. It is the Democrats who call to abolish ICE and to abolish our Border Patrol.

That is why today's Democrat Party is the way it is. It is because that is what they stand for. The Democrats would rather protect illegal immigrant criminals than law-abiding U.S. citizens.

The American people voted for secure borders. They voted for safe communities. President Trump and Republicans have delivered. Look at the historic border security accomplishments. What you have seen now under Republican leadership is that zero—absolutely zero—illegal immigrants have been released into our country in nearly a year.

Democrats want to return to the days of open borders. Well, Americans had open borders for 4 years under Joe Biden. It was one of the most dangerous and deadly times in American history. Ten million illegal immigrants flooded into our country. Open borders are a magnet, and they were a magnet and were proven to be a magnet for hardened criminals, for drug dealers, and for terror suspects.

Americans are done with this catch-and-release program. Americans are done with open borders.

ICE and Border Patrol deserve to be paid. ICE and Border Patrol deserve to have the tools, the resources, and the support they need each and every day to carry out their mission. It is time for Congress to fund these heroes who keep our country safe.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. BARRASSO. Mr. President, I ask unanimous consent that there be 6 minutes of debate, equally divided, between Senator WYDEN and the majority leader prior to the scheduled cloture vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. DURBIN. Mr. President, section 702 of the Foreign Intelligence Surveillance Act, or FISA, is an important tool for gathering foreign intelligence and keeping America safe, but this authority of the government also serves as a backdoor for warrantless surveillance of Americans right here at home.

The Trump administration, led by Stephen Miller, has asked Congress for a no-strings-attached extension of section 702. There is a growing bipartisan recognition of the need to reform this surveillance tool to protect American privacy and civil liberties.

Section 702 allows the government to collect the private communications of foreigners overseas without a warrant issued by a court. The problem is that millions—potentially billions—of innocent American communications with friends, family members, or coworkers abroad are being swept up in this collection.

Once collected, the government can read Americans' private texts, emails and messages and even listen to phone calls without ever obtaining a warrant from a judge.

To no one's surprise, without court approval for such searches, administrations of both parties have abused section 702 to spy on American families, including the families of protesters, Members of Congress, journalists, and even women on dating apps and rental tenants. We have every reason to believe that such abuses will continue, if not get worse, under the Trump administration as it is using every tool at its disposal to target political enemies and undermine the basic underpinnings of our democracy.

Last year, the Trump administration conducted more than 23,000—23,000—warrantless searches of Americans' private phone calls, texts, and emails, and these are just the ones we know about.

Every Member of Congress should also be concerned about the increase in so-called ''sensitive queries'' conducted by the FBI under Kash Patel's leadership. These are warrantless searches of section 702 data that target religious leaders, organizations, politicians, political organizations, and journalists. In 2025, the FBI conducted over three times as many sensitive queries as the Biden administration in 2024. We don't know whom the FBI has targeted using these sensitive queries, but we know under Kash Patel's leadership, the FBI has been all too willing to target political enemies to appease President Trump.

The Trump administration also refuses to release the latest FISA Court ruling on section 702, which found ''deficiencies'' with how the administration is conducting searches on Americans.

Rather than telling the American people what those deficiencies in the program are, the Trump administration is appealing the court's ruling. The American people deserve to see this opinion before their House Members and Senate Members vote on reauthorizing section 702.

Senator LEE is a conservative Republican from Utah. He and I are working together. We have proposed a path forward with the bipartisan SAFE Act, which would reauthorize section 702 for 3 years, while including critical reforms to protect Americans' constitutional right. Our bill would require the government to obtain a judicial warrant before accessing American citizens' texts, emails, or phone calls that the government has collected using section 702.

This would ensure independent, nonpartisan oversight of the government's use of this surveillance approach and stop this never-ending cycle of misuse under 702. Our warrant would protect Americans' privacy without jeopardizing national security.

We have expressly included robust exceptions for legitimate security needs, including for what is known as exigent circumstances, where there is any threat to life and agents have no time to obtain a warrant. That, of course, is the response when we talk about changing this system: You are going to slow it down when we need it the most; there could be an emergency, and we have to move. We wrote expressly in our amendment that exigent circumstances could move forward in a state of emergency.

The SAFE Act would also put an end to the government's practice of buying our personal data from third-party data brokers without a warrant. The Department of Homeland Security has reportedly used this loophole to track protesters in real time under the pretext that they are ''domestic terrorists.''

You remember the two individuals killed in Minneapolis by ICE? One of them was identified on the spot as a domestic terrorist—totally untrue.

If the government wants to spy on Americans, it needs to get a warrant, court approval. It is based on what we know as the Constitution's Fourth Amendment protection. Period.

That is why our amendment—our bipartisan amendment—is supported by conservative Republicans and progressive Democrats alike. The Senate could take up the SAFE Act and vote on it this week, and I hope we do. I believe

there is broad bipartisan support for this bipartisan measure by Senator LEE and myself.

Congress should also address the ill-advised expansion of section 702 that allows its use for surveillance for non-citizens traveling in the United States. This provision may be the reason Stephen Miller is the White House leading advocate for reauthorizing section 702. He reportedly views 702 as ''critical to a variety of Homeland Security missions.'' What could that possibly be? Immigration in the United States, even though this section is expressly focused on foreign intelligence abroad.

If a reauthorization bill reaches the floor of the Senate, I will pursue an amendment to limit the government's ability to use section 702 for President Trump's mass deportation campaign.

Some may argue that there is not enough time to enact reforms before section 702 expires—false. Section 702 surveillance operates under yearlong certifications approved by the FISA Court. Even if section 702 were to expire this week, the law makes it clear, the surveillance may continue until March of next year.

There is no emergency excusing Congress from getting this right. This affects the privacy, potentially, of every American family.

I will vote against any long-term extension of section 702 that gives this administration—or any administration—unfettered access to America's communications without a warrant. I urge my colleagues to do the same.

I ask unanimous consent that the document that I have in my hand be entered in the RECORD with my statement just given on the floor of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Brennan Center for Justice]

SECTION 702 OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT: AN EXPLAINER

For too long, this law has allowed the government to evade privacy protections and spy on Americans. Reform is overdue.

(By Hannah James and Elizabeth Goitein)

Congress will soon vote on the reauthorization of a surveillance authority known as Section 702 of the Foreign Intelligence Surveillance Act (FISA), which is set to expire on April 20. Although Congress passed the law to facilitate surveillance of the foreigners overseas, the government also uses Section 702 to spy on Americans—a practice that has resulted in widespread abuses and made the law deeply controversial. The upcoming reauthorization is an opportunity for Congress to enact long-overdue protections for Americans' privacy.

President Trump is encouraging Congress to renew Section 702 without such protections, known as a straight reauthorization. Lawmakers from both parties, however, have expressed opposition to an extension without reforms. At this stage, it remains unclear whether congressional leadership will allow proposed reforms to receive a vote—but it is equally unclear whether reauthorization can move forward without reforms.

What is Section 702?

Section 702 of the Foreign Intelligence Surveillance Act authorizes the government to surveil foreigners located outside the United States. Intelligence agencies identify foreign ''targets'' for surveillance and direct U.S. companies like Google, AT&T, and Verizon to turn over the target's phone calls, emails, and text messages. The government does not need a court's approval to target a particular foreigner. Instead, a specialized court called the Foreign Intelligence Surveillance Court, also known as the FISA Court, approves general procedures for the surveillance on an annual basis.

Whose communications does the government collect under Section 702?

The government may target any foreigner located outside the United States as long as a ''significant purpose'' of doing so is to obtain foreign intelligence information, broadly defined to include ''information related to . . . the conduct of the foreign affairs of the United States.'' In other words, the government does not need to suspect the target of terrorism or any other nefarious activity to collect their communications.

While the government cannot ''target'' Americans for surveillance under Section 702, the surveillance ''incidentally'' sweeps in Americans' communications in large volumes, because Americans communicate with foreigners overseas. And because targets themselves need not be suspected of any wrongdoing, the Privacy and Civil Liberties Oversight Board—an independent agency tasked with ensuring that the federal government's counterterrorism efforts respect privacy and civil liberties—has emphasized that ''ordinary Americans may be in contact with Section 702 targets for business or personal reasons.''

For example, the government could target a foreign journalist based in London who has sources in the British government if it believes those sources will communicate to the journalist relevant information about U.S. relations with the United Kingdom. Any American in touch with that journalist—friends, family, or colleagues—would then have their private communications with that journalist swept up in the process.

How does the government use Section 702 as a domestic spying tool?

Ordinarily, if the government wants to collect an American's private communications, it must first obtain a warrant or a FISA Title I order, which is a type of warrant issued by the FISA Court in foreign intelligence cases. Accordingly, to prevent Section 702 from becoming an end run around the Fourth Amendment and FISA, Congress required the government to ''minimize'' the retention and use of Americans' communications that are incidentally collected and to certify to the FISA Court on an annual basis that it is not using Section 702 to spy on Americans.

Notwithstanding these mandates, once the government collects data under Section 702—forgoing a warrant on the ground that it is targeting only foreigners overseas—it routinely searches through that data to find Americans' phone calls, text messages, and emails. The FBI, CIA, NSA, and National Counterterrorism Center conduct literally thousands of these warrantless ''backdoor searches'' (which the government calls ''U.S. person queries'') each year.

This practice is a bait and switch that drives a gaping hole through the protections of the Fourth Amendment and FISA. Unfortunately, the FISA Court, which operates very differently from regular courts and is notoriously deferential to the government, has permitted this practice, and Congress gave its own blessing when reauthorizing Section 702 in 2018.

Are backdoor searches constitutional?

The Supreme Court has not addressed the constitutionality of backdoor searches. However, it has made clear that the Fourth Amendment, which protects against unreasonable search and seizure, requires the government to obtain a warrant to conduct a search, subject to certain narrow exceptions. Accordingly, advocates (including the Brennan Center) have long maintained that warrantless backdoor searches violate the Fourth Amendment.

While the FISA Court has upheld the constitutionality of backdoor searches, regular federal courts are beginning to recognize the constitutional infirmities of this practice. In 2019, a unanimous three-judge panel of the Second Circuit Court of Appeals—the only regular federal appellate court to rule on the issue—rejected the FISA Court's rationales and raised constitutional concerns. Two years later, a judge on a panel of the Tenth Circuit Court of Appeals echoed those concerns (the other two judges on the panel did not address the issue). In December 2024, a district court judge held that the Fourth Amendment requires the government to either obtain a warrant or cite an applicable exception to the warrant requirement when conducting backdoor searches, and it found that the searches at issue in the case were unconstitutional.

Still, the courts are unlikely to definitively resolve the constitutionality of backdoor searches in the near future because regular federal courts rarely have an opportunity to address the question. That makes it all the more important for Congress to step in to protect Americans' rights.

How have intelligence agencies abused backdoor searches?

Congress and the FISA Court have attempted to place some modest limits on the government's use of backdoor searches. Intelligence agencies, and the FBI in particular, have habitually violated those limits. In 2022, the FISA Court observed that ''compliance problems with the FBI's querying of Section 702 information have proven to be persistent and widespread.'' Indeed, in March 2022, the government reported more than 278,000 noncompliant searches of information obtained through FISA. Moreover, from 2018 through 2024, the law required the FBI to obtain a warrant before conducting backdoor searches in a very small subcategory of cases involving certain criminal investigations. Despite conducting dozens of these searches during that time, the FBI never once got a warrant.

The compliance issues have been alarming not only in scale but also in substance. In recent years, FBI agents have abused Section 702 to search for the communications of protesters across the political spectrum; members of Congress; a congressional chief of staff; a state court judge; multiple U.S. government officials, journalists, and political commentators; and 19,000 donors to a political campaign. NSA agents conducted backdoor searches directed at women on dating apps and a rental property tenant. These improper searches underscore the threat that backdoor searches pose not only to Americans' privacy but also to core civil liberties, such as freedom of speech and association, and even to personal safety.

Did Congress fix the problems with Section 702 when it last reauthorized the law?

In 2024, Congress passed the Reforming Intelligence and Securing America Act (RISAA), a bill authored by longtime opponents of Section 702 reform in an attempt to stave off more meaningful changes. While RISAA included some modest reforms relating to backdoor searches, none of them solved the fundamental problem: Section 702 grants the government warrantless access to Americans' private communications. In any event, most of these reforms merely codified changes to internal agency procedures that

the FBI had previously implemented and that had already proven to be insufficient to stop abuse.

As unambitious as RISAA's requirements were, it emerged within months that the FBI was systematically violating them. In August 2024, Department of Justice overseers discovered that the FBI had been quietly using a querying tool that allowed users to access Americans' communications without adhering to the procedures in RISAA designed to prevent abuse, such as obtaining attorney or supervisory approval for backdoor searches, recording the reasons for conducting them, and subjecting them to internal audits. It took months for the DOJ to shut down this tool.

In March 2026, however, the FISA Court found that the problem the DOJ claimed to have fixed in early 2025 is in fact ongoing—and extends beyond the FBI. Although the opinion is classified, the New York Times reported that the use of ''filtering'' tools to perform queries of Americans' information is an issue ''across the intelligence community,'' and while the particular querying tool used by the FBI in 2024 had been discontinued, the bureau is using ''another tool'' with the same functionality.

This systemic violation of multiple provisions of RISAA, on its own, makes clear that RISAA did not solve the FBI's compliance problems. It also undermines the claim that RISAA produced a steep decline in the number of backdoor searches the FBI conducts. Those making this claim have pointed to the government's reported statistics for 2024 and 2025. But because the FBI did not track or count the number of queries performed using these ''filtering'' tools, the reported data for 2024 and 2025 is incomplete, and the total number of queries performed during those years remains unknown. And because the Department of Justice did not audit these queries, we simply do not know the extent or nature of any violations that might have occurred during this period.

How do the current administration's actions impact concerns about backdoor searches?

The current system of Section 702 oversight relies almost entirely on executive branch self-policing to prevent, detect, and report abuses. Although Congress and the FISA Court also oversee surveillance activities under Section 702, they do not conduct their own audits. They are thus wholly dependent on the DOJ and other agencies that receive Section 702 data to conduct rigorous audits of their own backdoor searches and to report the results promptly, fully, and accurately.

Yet this administration has gutted the main internal oversight mechanisms for Section 702. It dismantled the FBI's Office of Internal Auditing, established in 2020 to improve compliance with Section 702. It fired all three Democratic appointees on the five-member Privacy and Civil Liberties Oversight Board, thus undermining both its effectiveness and its independence. And it has apparently cowed the DOJ's Office of the Inspector General into inactivity. Moreover, dozens of courts across the country have admonished the DOJ for providing inaccurate, incomplete, or misleading information. In short, there is little reason to expect the robust internal oversight and faithful reporting that are necessary to deter abuse of Section 702.

What can be done to protect Americans from warrantless government spying?

Bipartisan sponsors have introduced bills in both the Senate and the House of Representatives that would reauthorize Section 702 with reforms to protect Americans' privacy, including a requirement that the government obtain a warrant or FISA Title I order to access the content of Americans' communications collected under Section 702. The warrant requirement proposals all include reasonable exceptions designed to accommodate legitimate security needs. For example, no court order would be required in an emergency, if the subject of the search provided consent (e.g., where the purpose of the search is to identify potential victims), or where the search is designed to identify the targets of a cyberattack.

Under current reform proposals, the court order requirement kicks in only when the government seeks to access the contents of a communication. In other words, the government may check first to see whether a particular American's information actually appears within the Section 702-collected data before applying for a court order. This would ensure that any additional burden on the courts is manageable, and it would allow the government to use U.S. person queries without a court order to rule out particular Americans' involvement in the activities under investigation.

This commonsense solution has had broad bipartisan support for years. It has been passed twice in the House, and in 2024, it was defeated in the House by a single vote. Polling shows that 76 percent of Americans support a court order requirement for backdoor searches.

Would a warrant requirement harm national security?

The national security value of backdoor searches is modest at best and would not be undermined by a warrant requirement. The government has provided multiple examples in which surveillance of foreign targets under Section 702 provided key information about cyberattacks, espionage, and fentanyl trafficking. By contrast, it has cited very few examples in which backdoor searches have been useful.

After a thorough review of all the relevant classified and unclassified information, the Privacy and Civil Liberties Oversight Board found in its 2023 report that ''there was little justification provided to the Board on the relative value of the close to 5 million [U.S. person queries] conducted by the FBI from 2019 to 2022.'' in the handful of instances in which backdoor searches did add value, it appeared that the government could have obtained a warrant, gotten the consent of the subject of the search, or invoked the emergency exception—a point confirmed by the chair of the Board. A warrant requirement with reasonable exceptions would protect Americans' rights while preserving the core national security value of Section 702: surveillance of foreign targets.

What happens if Congress doesn't reauthorize Section 702 by April 20?

Although the statute will expire on April 20, Section 702 surveillance operates under year-long certifications approved by the FISA Court. The law makes clear that these certifications remain valid until their expiration date, even if the underlying statute expires. Based on the date of the last publicly available certification, the government was scheduled to renew its certifications in March of this year, which would lock in Section 702 surveillance authority until March 2027. (Those renewal proceedings have not yet been declassified.)

Some supporters of a straight reauthorization have nonetheless expressed concerns that companies that provide communications services might refuse to turn over targets' communications to the government if the underlying law has expired. However, companies do not choose whether to assist the government with Section 702 surveillance. They are served with directives, and if they fail to comply with a valid directive, they face fines of $250,000 per day. The FISA Court can compel compliance, as it did in 2008 when a company refused to cooperate during a brief lapse in the statutory authority.

Congress has ample time to consider and pass reforms. Failure to do so would deny Americans long-overdue protections and facilitate continued warrantless domestic spying by the executive branch.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHEEHY). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 4344

Mr. THUNE. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to Calendar No. 373, S. 4344, occur at a time to be determined by the majority leader in consultation with the Democratic leader, no later than Friday, May 1.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, the Senate is now delaying a vote on FISA because Members are waking up to the fact that this surveillance authority is too dangerous to hand to any President without new reforms. And here is the bottom line. If there were the votes today to advance this bill right now, we would be voting. But when it comes to reauthorizing section 702, I am here to offer the judgment that the only path forward is reform.

Here is how we got here. Two weeks ago, the leadership in the House executed the oldest play in the book when it comes to surveillance: They waited until a week before the bill was set to expire, there was no time to debate, and they tried to pass a straight reauthorization without reforms.

What happened? A bipartisan coalition said: No way.

Then they came back with a new bill that week, but it turned out that these so-called reforms made FISA 702 less accountable. That bill failed.

Then the House voted on a straight extension of the law—again with no reforms. A bipartisan coalition voted that down.

And now, this week, the House Republican leadership tried to sell a fake reform to their Members a third time. Once again, the body is in disarray.

It is clear that Senators who voted to support the current FISA surveillance law in the past are now rethinking their positions. Every day, this administration demonstrates its contempt for the rule of law and its thirst for absolute power. They have destroyed